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3 **STATE OF WASHINGTON**  
4 **DEPARTMENT OF FINANCIAL INSTITUTIONS**  
5 **CONSUMER SERVICES DIVISION**

6 IN THE MATTER OF DETERMINING  
7 Whether there has been a violation of the  
8 Check Cashers and Sellers Act of Washington  
9 by:

10 CHECK 'N GO OF WASHINGTON, INC.,  
11 DBA CHECK 'N GO  
12 Respondent.

NO. C-05-012-06-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO REVOKE  
LICENSE, IMPOSE FINE, ORDER  
RESTITUTION, AND COLLECT  
INVESTIGATION FEE

13 **INTRODUCTION**

14 Pursuant to RCW 31.45.110 and RCW 31.45.200, the Director of the Department of Financial  
15 Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.45  
16 RCW, the Check Cashers and Sellers Act (Act). After having conducted an investigation pursuant to  
17 RCW 31.45.100, and based upon the facts available as of July 31, 2006, the Director institutes this  
18 proceeding and finds as follows:

19 **I. FACTUAL ALLEGATIONS**

20 **1.1 Respondent.**

21 **A. Check 'n Go of Washington, Inc. (Respondent Check 'n Go)** is licensed by the  
22 Department of Financial Institutions of the State of Washington (Department) to conduct the business of a  
23 check casher with a small loan endorsement. Respondent Check 'n Go has been so licensed since July 15,  
24 1998.

**B. Locations.** Respondent Check 'n Go reported a mailing address of 5155 Financial Way, Mason, OH 45040, and a physical address of 2913 S. 38<sup>th</sup> St. Tacoma, WA 98409. Respondent is licensed to conduct business in the State of Washington from the following locations:

20614 108<sup>th</sup> Ave. SE, Kent, WA  
3740 Wheaton Way, Ste. C, Bremerton, WA  
20052 Ballinger Way NE, Mount Lake Terrace, WA  
1015 Ocean Beach Hwy, Ste 115, Long View, WA  
9623 State Ave., Unit D, Marysville, WA  
3015 W. Kennewick, Kennewick, WA  
15500 First Ave. S., Burien, WA  
6 N. Fair Ave., Ste 113, Yakima, WA  
4820 NE 4<sup>th</sup> St. Ste A 105, Renton, WA  
3700 Martin Way E. Ste 110, Olympia, WA  
17520 Meridian, Unit C, Puyallup, WA  
10404 Silverdale Way NW, Silverdale, WA  
1811 Howard Rd., Auburn, WA  
31830 Pacific Hwy. S., Unit H, Federal Way, WA  
5000 E. Fourth Plain Blvd., Vancouver, WA

**1.2 Examination of Respondent Check ‘n Go on July 19, 2004.** The Department conducted a compliance examination of Respondent Check ‘n Go, pursuant to chapter 31.45 RCW, on July 19, 2004.

**1.3 Follow-up Examination of Respondent Check 'n Go on November 18, 2005.** The Department conducted a follow-up compliance examination of Respondent Check 'n Go, pursuant to chapter 31.45 RCW, on November 18, 2005.

**1.4 Accepting Multiple Postdated Checks.** On July 17, 2004, Respondent Check 'n Go enacted a policy that requires the taking of multiple checks from Washington borrowers and providing the borrowers with multiple loans for the aggregate amount of the initially desired loan. Since the enactment of this policy, Respondent Check 'n Go has repeatedly accepted more than one postdated check per small loan as security for the small loan.

A. Upon review of the small loan files examined during the July 19, 2004, examination of Respondent Check 'n Go's branches located in Puyallup, Tacoma, and Lacey, at least 20 consumers had provided more than one postdated check as security for the small loan.

B. Upon review of the small loan files reviewed during the follow-up examination on November 18, 2005, at the Puyallup, Tacoma, and Lacey branches, at least 39 consumers had provided more than one postdated check as security for the small loan.

**1.5 Multiple NSF Fees Incurred as a Result of Accepting Multiple Postdated Checks.** Due to Respondent Check 'n Go's policy of soliciting multiple postdated checks as security for the small loan, consumers have incurred additional charges from their financial institution when multiple checks have been returned unpaid by the financial institution upon which they were drawn. Respondent Check 'n Go's policy of soliciting multiple postdated checks as security for the small loan has resulted in at least 35 consumers being charged additional fees where a borrower's multiple checks, solicited as security for the small loan, have been returned unpaid by the financial institution upon which they were drawn.

**1.6 Charging Fees on Delinquent Small Loans in Excess of Statutory Maximum.** Respondent Check 'n Go charged multiple NSF fees to at least 29 borrowers when a borrower's multiple checks, solicited as security for the small loan, have been returned unpaid by the financial institution upon which they were drawn, in excess of a one-time fee up to twenty-five dollars (\$25.00).

**1.7 Obtaining and Retaining Personal Identification Numbers (PIN):** Upon review of the small loan files examined during the July 19, 2004, examination of the Respondent Check 'n Go's stores located in Puyallup, Tacoma, and Lacey, it was discovered that Respondent Check 'n Go, without notice to or consent from borrowers, had obtained and stored the PIN numbers of at least 19 Washington consumers. Respondent Check 'n Go's unauthorized gathering and retention of

1 consumer's PIN numbers unnecessarily exposed the affected consumers to possible theft of funds and  
2 possible identity theft.<sup>1</sup>

3 **1.8 On-Going Investigation:** The Department's investigation into the alleged violations of the  
4 Act by Respondent Check 'n Go continues to date.

## 5 **II. GROUNDS FOR ENTRY OF ORDER**

6 **2.1 Definition of Check Casher.** Pursuant to RCW 31.45.010(5), a "Check Casher" is defined as  
7 an individual, partnership, unincorporated association, or corporation that, for compensation, engages,  
8 in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper  
9 serving the same purpose.

10 **2.2 Definition of Licensee.** Pursuant to RCW 31.45.010(12), a "Licensee" is defined as a check  
11 casher or seller licensed by the director to engage in business in accordance with the Act. For the  
12 purpose of the enforcement powers of the Act, including the power to issue cease and desist orders  
13 under RCW 31.45.110, "licensee" also means a check casher or seller who fails to obtain the license  
14 required by the Act.

15 **2.3 Definition of Small Loan.** Pursuant to RCW 31.45.010(19), a "Small Loan" is defined as a  
16 loan up to the maximum amount and for a period of time up to the maximum term specified in RCW  
17 31.45.073.

18 **2.4 Acceptance of Multiple Postdated Checks.** Based on the Factual Allegations set forth in  
19 Section I above, Respondent Check 'n Go is in apparent violation of RCW 31.45.073(4) for accepting  
20 more than one postdated check per small loan as security for the small loan.

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23 <sup>1</sup> Additionally, a PIN number is an "access device" pursuant to RCW 9A.56.010(1). Exerting unauthorized control over or  
24 possessing an access device can constitute the crimes of Theft in the Second Degree or Possession of Stolen Property in the  
25 Second Degree pursuant to RCW 9A.56.020, .040, and .160; both of which are class C felonies.

1 **2.5 Statutory Maximum Fees on Delinquent Small Loans.** Based on the Factual Allegations set  
2 forth in Section I above, Respondent Check 'n Go is in apparent violation of RCW 31.45.082 for  
3 charging fees on delinquent small loans in excess of the one-time fee authorized by the director where  
4 a borrower's check has been returned unpaid by the financial institution upon which it is drawn.  
5 Pursuant to WAC 208-630-085(1)(b), the allowable one-time fee where a borrower's check has been  
6 returned unpaid by the financial institution upon which it is drawn is currently no more than twenty-  
7 five dollars (\$25.00).

8 **2.6 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent  
9 Check 'n Go is in apparent violation of RCW 31.45.110(1)(h) and (l) for knowingly committing or  
10 being a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick,  
11 scheme, or device whereby any other person relying upon the word, representation, or conduct of the  
12 licensee acts to his or her injury or damage; and for committing an act or engaging in conduct that  
13 demonstrates incompetence or untrustworthiness or is a source of injury and loss.

14 **2.7 Authority to Revoke License.** Pursuant to RCW 31.45.110(2)(a), the Director may revoke a  
15 license if a licensee is violating or has violated the Act including rules and orders, or commits any act  
16 or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury or  
17 loss to the public.

18 **2.8 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a fine,  
19 not to exceed one hundred dollars per day for each day's violation of the Act, on any licensee or  
20 applicant, or any director, officer, sole proprietor, partner, controlling person, or employee of a  
21 licensee or applicant, that is violating or has violated the Act, including rules and orders, or commits  
22 any act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of  
23 injury or loss to the public.

1 **2.9 Authority to Order Restitution.** Pursuant to RCW 31.45.110(2)(d), the Director may order  
2 restitution to borrowers damaged by the licensee's violation of this chapter.

3 **2.10 Authority to Charge Investigation Fee.** Pursuant to RCW 31.45.050(1), RCW 31.45.100,  
4 WAC 208-630-020, WAC 208-630-023, and WAC 208-630-02303, upon completion of any  
5 investigation of the books and records of a licensee, the Director shall collect from the licensee the actual  
6 cost of the investigation. The investigation charge will be calculated at the rate of sixty-nine dollars and  
7 one cent (\$69.01) per hour that each staff person devoted to the investigation.

### 8 **III. NOTICE OF INTENTION TO ENTER ORDER**

9 Respondent Check 'n Go's violations of the provisions of chapter 31.45 RCW and chapter 208-  
10 630 WAC, as set forth in the above Factual Allegations and Grounds for Entry of Order, constitute a basis  
11 for the entry of an order under RCW 31.45.110 and RCW 31.45.200. Therefore, it is the Director's  
12 intention to ORDER that:

13 3.1 Respondent Check 'n Go of Washington, Inc.'s license to conduct the business of a check  
14 cashier with a small loan endorsement be revoked; and

15 3.2 Respondent Check 'n Go of Washington, Inc., pay a fine of \$333,700, which consists of:  
16 a. \$26,900 for accepting multiple postdated checks for small loans from at least 20  
17 Washington consumers in violation of RCW 31.45.073(4), calculated at \$100 per day for  
18 the term of each consumer's loan, as discovered during the July 19, 2004, exam, and  
19 b. \$60,800 for accepting multiple postdated checks from at least 39 Washington consumers  
20 in violation of RCW 31.45.073(4), calculated at \$100 per day for the term of each  
21 consumer's loan, as discovered during the November 18, 2005 exam, and  
22 c. \$105,000 for causing at least 35 Washington consumers to unnecessarily incur NSF fees  
23 in violation of RCW 31.45.110(1)(h) and (l), calculated at \$100 per day, per consumer, for  
24 30 days, and  
25 d. \$84,000 for charging multiple NSF fees from at least 29 Washington consumers in  
violation of RCW 31.45.082, calculated at \$100 per day, per consumer, for 30 days, and  
e. \$57,000 for obtaining and retaining the PIN numbers of at least 19 Washington consumers  
in violation of RCW 31.45.110(1)(h) and (l), calculated at \$100 per day, per consumer, for  
30 days, and


3.3 Respondent Check 'n Go of Washington, Inc., pay restitution to all affected borrowers for  
any fees incurred from the solicitation of two postdated checks for a single loan; and

3.4 Respondent Check 'n Go of Washington, Inc. pay an investigation fee in the amount of \$5796.84, calculated at \$69.01 per hour for eighty-four (84) staff hours devoted to the investigation.

#### IV. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine, Order Restitution, and Collect Investigation Fee is entered pursuant to the provisions of RCW 31.45.110 and RCW 31.45.200, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine, Order Restitution, and Collect Investigation Fee.

Dated this 2nd day of August, 2006.

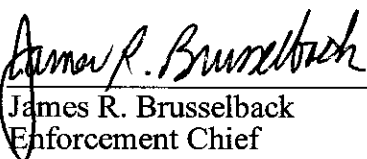
  
CHUCK CROSS  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:

  
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Approved By:

  
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